THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.13254 of 2007

Date:23.07.2007

Between:

Gadde Somaraju

.. PETITIONER

AND

The Special Cadre Deputy Registrar/Officer on Special Duty and another.

..RESPONDENTS

ORDER:

The petitioner challenges the notice, dated 15.04.2002, through which the respondents proposed to bring the property belonging to him to sale, for recovery of certain amount.

The petitioner borrowed agricultural loan from R.Ganapavaram Primary Agricultural Cooperative Society, the second respondent herein. According to him, the loan stood waived, on account of the policy decision taken by the Government. He complains that without issuing any notice at the stage of recovery certificate, the first respondent straight away issued the sale notice. Several other grounds were also urged.

On behalf of the second respondent, a counter-affidavit is filed. It is stated that though notice was served upon the petitioner, he did not respond and left with no alternative, the first respondent issued recovery certificate under Section 71 of the

A.P. Cooperative Societies Act, 1964 (for short 'the Act'). It is alleged that even after the issuance of recovery certificate, the petitioner did not take any steps and in that view of the matter, the mortgaged property is proposed to be sold.

Heard the learned counsel for the petitioner and the learned standing counsel for the second respondent.

The petitioner does not dispute the fact that he obtained loan from the second respondent-society. It is not even alleged that the loan was repaid in its entirety. The claim that the loan was waived is not supported by any document. The respondents have categorically stated that the petitioner was served with notice under Section 71 of the Act and a recovery certificate was issued thereafter. Once the recovery certificate, which is comparable to a decree in money suit, has become final, the petitioner cannot make any complaint for its execution. Therefore, this Court does not find any basis to interfere with the impugned notice.

The learned counsel for the petitioner submits that the petitioner may be extended the facility of paying the amount in question in instalments. Though this request is opposed by the learned standing counsel for the second respondent, this Court is of the view that the petitioner deserves to be extended the facility of remitting the amount due in instalments.

For the foregoing reasons, the writ petition is disposed of, directing that the impugned notice shall remain in abeyance on condition that:

(a) the petitioner shall deposit half of the amount due, within four weeks from today; and

(b) the balance of the amount shall be paid in four equal monthly instalments payable on or before 5th of every month, commencing from 05.09.2007. In case the petitioner commits default in payment of half of the amount or two consecutive monthly instalments, the impugned notice shall stand revived and it shall be open to the respondents to take further steps.

There shall be no order as to costs.

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23.07.2007

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